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KENNETH FINEMAN; ROGER KATEN; GEORGE BUYANOVSKY;

IGOR OKULIST; and JOSEF GOREK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

TERARECON, INC.,

Plaintiff,

vs.

FOVIA, INC.; FOVIA MEDICAL, INC.;
KENNETH FINEMAN; ROGER KATEN;
GEORGE BUYANOVSKY; IGOR
OKULIST; and JOSEF GOREK,

Defendants.

AND RELATED COUNTERCLAIM.

Case No. C 05-04407 (CW)

E-FILING

ORDER GRANTING STIPULATION
AND JOINT REQUEST REGARDING
EXTENSION OF PRETRIAL AND
TRIAL DATES AS MODIFIED

Judge: The Honorable Claudia Wilken

Trial Date: August 6, 2007

1 WHEREAS, on May 24, 2006, a protective order was entered in this action which
2 governs the exchange of Confidential and Highly Confidential Information.

3 WHEREAS the parties exchanged formal discovery demands on June 2 and June 6,
4 2006.

5 WHEREAS on June 8, 2006, the parties appeared for mediation before Philip
6 Gregory, Esq.

7 WHEREAS at the mediation, it appeared that the prospects for fruitful settlement
8 discussions or further mediation would be enhanced substantially if the parties first were to
9 identify and exchange evidence that would assist each side in better evaluating the claims
10 asserted in this litigation.

11 WHEREAS further telephonic conferences with the mediator were held on June 16
12 and June 27, 2006 in which details of a proposed procedure and the evidence to be
13 exchanged were discussed.

14 WHEREAS the parties engaged in a further, lengthy settlement meeting on
15 August 22, 2006 at which the parties agreed to an exchange of evidence that they believe
16 may facilitate settlement of the action, in anticipation of a further settlement meeting,
17 conditional upon the Court's agreeing to continue the discovery, pretrial and trial dates in
18 this action.

19 WHEREAS on September 5, 2006 the Court entered an order setting new discovery,
20 pretrial and trial dates in this action.

21 WHEREAS the parties subsequently exchanged evidence and have evaluated that
22 evidence.

23 WHEREAS the parties have now agreed to a mediation before the Hon. Eugene F.
24 Lynch (Ret.), which mediation is expected to take place on December 18, 2006.

25 WHEREAS the parties believe that this further mediation may result in a resolution
26 of the litigation and obviate the need for formal discovery or further proceedings in this
27 case.

28

WHEREAS a continuance of the pretrial and trial dates are necessary to allow the parties to engage in the settlement process without having simultaneously to engage in extensive formal discovery, that otherwise would be necessary in light of the existing December 13, 2006, cutoff for fact discovery. The parties realize that there already has been one extension of these pretrial and trial dates. If the court has any questions or concerns about this request, the parties would appreciate the opportunity to address them, in a telephonic status conference or otherwise.

ACCORDINGLY, THE PARTIES HEREBY REQUEST AND STIPULATE THROUGH THEIR ATTORNEYS OF RECORD AS FOLLOWS:

1. That the pretrial and trial dates established in the Minute Order and Case Management Order filed September 5, 2006 be vacated. The following dates, or such later dates as may be convenient for the Court, are proposed:

Event	Existing Date	Proposed New Date
Date of next case management conference:	April 20, 2007	July 6, 2007
Completion of fact discovery:	December 13, 2006	February 28, 2007
Disclosure of identity and reports of expert witnesses:	January 22, 2007	April 5, 2007
Exchange of rebuttal expert reports:	February 5, 2007	April 19, 2007
Completion of expert discovery:	February 20, 2007	May 4, 2007
All case-dispositive motions to be heard at 10:00 a.m. on or before:	April 20, 2007	August 3, 2007
Final pretrial conference at 1:30 p.m. on:	July 27, 2007	October 26, 2007
An 8-day jury trial will begin at 8:30 a.m. on:	August 6, 2007	November 5, 2007

Deadlines set in reference to the current date for hearing on dispositive motions shall be deemed to refer to the continued hearing date for such motions.

Dated: November 16, 2006.

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Pursuant to General Order No. 45(X)(B), I hereby attest that concurrence in the filing of this document has been obtained from counsel for Defendants FOVIA, INC.; FOVIA MEDICAL, INC.; KENNETH FINEMAN; ROGER KATEN; GEORGE BUYANOVSKY; IGOR OKULIST; and JOSEF GOREK.

By /s/ Sharon L. O'Grady
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TERARECON, INC., and Counter-defendants
MOTOAKI SAITO, M.D., and ROBERT TAYLOR,
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ORDER

PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO ORDERED.

The existing deadlines and dates for the following matters are vacated and the deadlines and dates set forth below are hereby established:

Date of next case management conference: **August 3, 2007**

Completion of fact discovery: February 28, 2007

Disclosure of identity and reports of expert witnesses: April 5, 2007

Exchange of rebuttal expert reports: April 19, 2007

Completion of expert discovery: May 4, 2007

All case-dispositive motions to be heard at 10:00 a.m. on or before: August 3, 2007

Final pretrial conference at 1:30 p.m. on: October 26, 2007

An 8-day jury trial will begin at 8:30 a.m. on: November 5, 2007

Dated: November 22, 2006



The Honorable Claudia Wilken
United States District Judge